

ORIGINAL  
FILE

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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JAN 14 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of  
  
Implementation of the  
Cable Television Consumer  
Protection and Competition  
Act of 1992  
  
Broadcast Signal Carriage  
  
To: The Commission

MM Docket No. 92-259

COMMENTS OF MID-STATE TELEVISION, INC.

Mid-State Television, Inc. ("Mid-State"), by its attorneys, hereby files its comments in response to the Notice of Proposed Rule Making, released November 19, 1992, in the above-captioned proceeding (the "Notice"). Mid-State is the licensee of WMFD-TV, an independent UHF station licensed to Mansfield, Ohio.<sup>1</sup> In these comments, Mid-State addresses two issues regarding the definition of a television market for the purposes of mandatory carriage.

As recently amended, Section 614(h)(1)(A) of the Communications Act defines "local commercial television station," which is (subject to a few exceptions and limitations) entitled to mandatory carriage on certain cable systems, as a station assigned to a community that, with respect to a particular cable system, is within the same television market as the cable system. Section 614(h)(1)(C) provides that a station's "market" is determined by

<sup>1</sup> Mid-State is also the licensee of W50BE, a low-power television station also licensed to Mansfield, Ohio.

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its Arbitron Area of Dominant Influence ("ADI") but permits the Commission, pursuant to a request, to add communities to a station's television market, or determine that particular communities are part of more than one television market. Paragraph 20 of the Notice addresses the criteria established in the Act for such determinations, and seeks comments as to whether additional criteria should be used as well. Mid-State recommends that the Commission adopt additional criteria that recognize that stations such as WMFD direct their programming towards communities in a contiguous retail trading area, regardless of whether or not that trading area overlaps more than one ADI. Such stations should be considered "local" throughout its trading area, and thus entitled to request mandatory carriage on cable systems throughout that area.

For example, Mansfield, Ohio, WMFD's city of license, is located in Richland County, which is on the southwest corner of the Cleveland, Ohio ADI. See Appendix 1, attached hereto. WMFD's basic service area includes Richland County and the contiguous counties of Huron and Ashland (located in the Cleveland ADI), and Knox, Morrow, and Crawford (located in the Columbus, Ohio ADI - See Appendix 2). These six counties, centered around Mansfield, constitute a dynamic and rapidly growing regional retail center. WMFD's programming, especially its news and sports, are specifically directed towards the needs and interests of the viewers in this region. Unfortunately, half of this retail trading area (and of WMFD's basic service area) is in the Cleveland ADI and half is in the Columbus ADI. Yet, if the definition of WMFD's "local market" were strictly limited communities in the Cleveland

ADI (since Mansfield is located in that ADI), WMFD could not demand carriage in Knox, Morrow and Crawford counties, notwithstanding the fact that it provides coverage of local news and sports events in those counties. As a result, cable viewers in those counties are less likely to be able to receive the local programming of WMFD. This artificial barrier between WMFD and its natural audience would be particularly detrimental to WMFD, which is a relatively new, small independent station.

WMFD's geographic situation is hardly unique, and Congress apparently recognized that this sort of problem would arise regularly by providing a remedy in Section 612 (h)(1)(C) of the Act. Mid-State applauds the Commission's recognition of the fact that while Section 612 (h)(1)(C)(ii) suggests four possible factors for evaluation of "local markets," it does not limit the criteria to those factors alone.<sup>2</sup> Accordingly, Mid-State recommends that the Commission consider the presence of a particular cable community in the "retail trading area" of a broadcast station as a factor in evaluating requests to alter "local markets."<sup>3</sup> The existence and

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<sup>2</sup> Section 612 (h)(1)(C)(ii) states that in considering requests to alter markets, the Commission should consider "such factors as" the four set out. Nothing in this language limits consideration to those factors.

<sup>3</sup> The Commission has recognized the logic of using economically and socially integrated areas in licensing decisions in other services. Thus, it has proposed to use Rand McNally's 487 Basic Trading Areas or 47 Major Trading Areas as service areas for the Personal Communications Service. Personal Communications Services, Notice of Proposed Rulemaking, 7 FCC Rcd 5676,5700 (1992). Similarly, in comments filed in that proceeding, the National Telecommunications and Information Administration ("NTIA") suggested that the Commission use the 183 "economic areas" defined by the Department of Commerce's Bureau of Economic Analysis. Comments of NTIA at pages 20-21. Mid-State is not, however, advocating the necessity of using of any of these particular geographic units.

boundaries of such trading areas could be established by documented evidence regarding newspaper circulation, census data, and other commonly recognized methods of analyzing retail markets.<sup>4</sup>

In establishing must-carry regulations, Congress recognized the importance of retaining local television stations, and thus local news and public affairs programming, on cable systems.<sup>5</sup> It is clear that not all television stations that are "local" to a community are in the same ADI as that community. While the factors in Section 612 (h)(1)(C)(ii) will promote the carriage of more local stations on cable systems, numerous stations will slip through the gaps of those factors, especially new independent stations without a long history of carriage on cable systems. Such stations often emphasize more local coverage in order to distinguish themselves and build an audience. Adoption of the retail trading area factor suggested herein will promote carriage of such stations and further Congress' intent of promoting local programming on cable systems.

In paragraph 20 of the Notice, the Commission inquires as to whether a specific milage limitation should be used when determining whether a station's market should be modified for must-carry purposes. Mid-State believes that the principle in these cases should be that the geographic scope of mandatory carriage should largely reflect the predicted coverage of the station: mandatory carriage puts the station into the homes that generally

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<sup>4</sup> See Comments of NTIA, Id., at note 37, detailing how the Department of Commerce's "Economic Areas" are based on employment, commuting and newspaper circulation data.

<sup>5</sup> H. Rep. No. 628, 102d Cong., 2d Sess., at 50-51 (1992).

would receive the station over the air. Accordingly, requests to add communities to local markets could be limited to those cases where the cable headend is no more than 50 miles from the station transmitter and the station's predicted grade B signal covers that headend.<sup>6</sup>

Respectfully submitted,

MID-STATE TELEVISION, INC.

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January 4, 1993

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<sup>6</sup> Because the section in the amended Communications Act for "market determinations" [614(h)(1)(C)] is different than that for the definition of "local commercial television station" [614(h)(1)(B)], the Commission would not need to, and should not, adopt the requirement stated in Section 614(h)(1)(B)(iii) that signal levels be measured at "the input terminals or the [operator's] signal processing equipment" for the purposes of altering local television markets. Numerous factors unrelated to the distance between the system and the station can effect the strength of the signal at the "input terminals" as opposed to above the headend. These factors include the height and the magnitude of the receiving antenna, and the length and quality of the coaxial cable from the antenna to the input terminal.

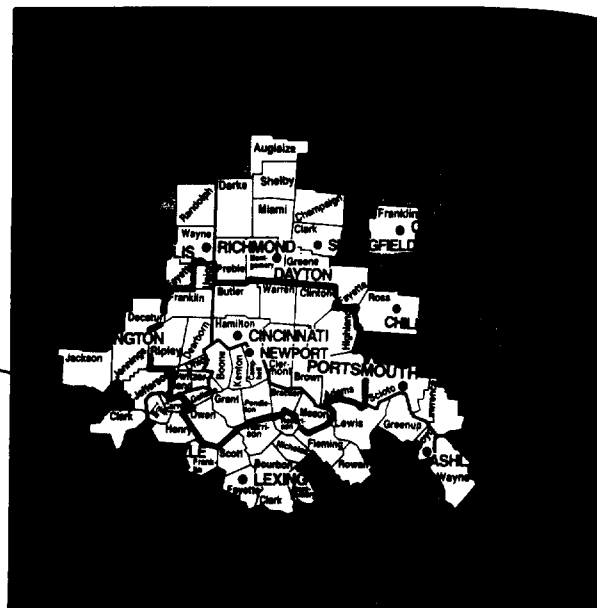
## Cincinnati (30)

ADI TV Households: 752,000

**WLWT** Cincinnati ch. 19 NBC  
**WCPO-TV** Cincinnati ch. 9 CBS  
**WKRC-TV** Cincinnati ch. 13 ABC  
**\*WPTO** Oxford ch. 14 ETV  
**WXIX-TV** New Albany ch. 19 Fox  
**\*WCET** Cincinnati ch. 48 ETV  
**\*WKON** Owen Sound ch. 52 ETV  
**\*WCVN** Covington ch. 54 ETV  
**WSTR-TV** Cincinnati ch. 64 IND

ADI Counties	State	TV Households
Dearborn	IN	14,000
Franklin	IN	6,500
Ohio	IN	2,000
Ripley	IN	8,800
Switzer and Union	IN	2,800
Boone	KY	2,300
Bracken	KY	19,600
Cambel	KY	2,700
Gallatin	KY	30,300
Grant	KY	2,000
Kenton	KY	5,300
Mason	KY	53,100
	KY	6,300

Owen	KY	3,400
Pendleton	KY	4,200
Adams	OH	9,300
Brown	OH	13,100
Butler	OH	102,800
Clermont	OH	53,300
Clinton	OH	13,900
Hamilton	OH	343,500
Highland	OH	13,900
Warren	OH	38,900



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Color

ADI TV

KOAA-TV  
 \*KTSC  
 KKTV  
 KRDO-TV  
 KXRM-TV  
 KPCH-TV

ADI Counties

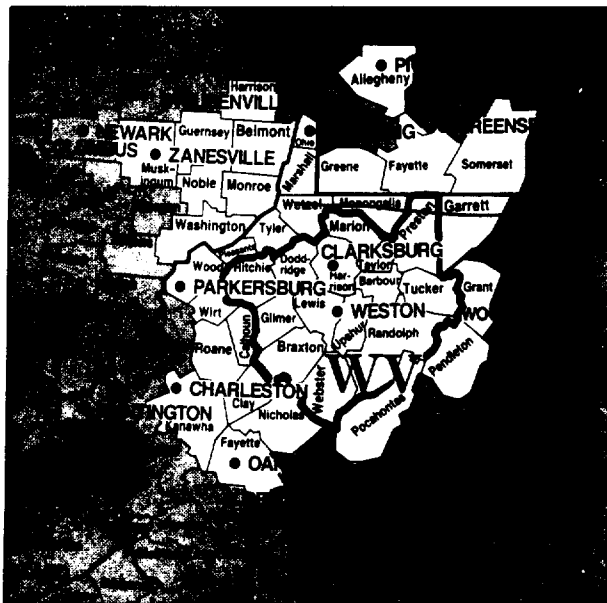
Baca  
 Bent  
 Cheyenne  
 Crowley  
 Custer  
 El Paso  
 Fremont  
 Huerfano  
 Kiowa  
 Las Animas  
 Lincoln  
 Otero  
 Poudre

## Clarksburg-Weston, W. Va. (154)

ADI TV Households: 126,300

**WDTV** Weston, W. Va. ch. 5 CBS (ABC)  
**WBOY-TV** Clarksburg, W. Va. ch. 12 NBC (ABC)  
**WLYJ** Clarksburg, W. Va. ch. 46 IND

ADI Counties	State	TV Households
Barbour	WV	6,000
Braxton	WV	5,300
Doddridge	WV	2,800
Gilmer	WV	2,900
Harrison	WV	29,500
Lewis	WV	6,900
Marion	WV	24,900
Preston	WV	11,100
Randolph	WV	10,400
Ritchie	WV	4,400
Taylor	WV	5,800
Tucker	WV	3,300
Upshur	WV	8,700
Webster	WV	4,300



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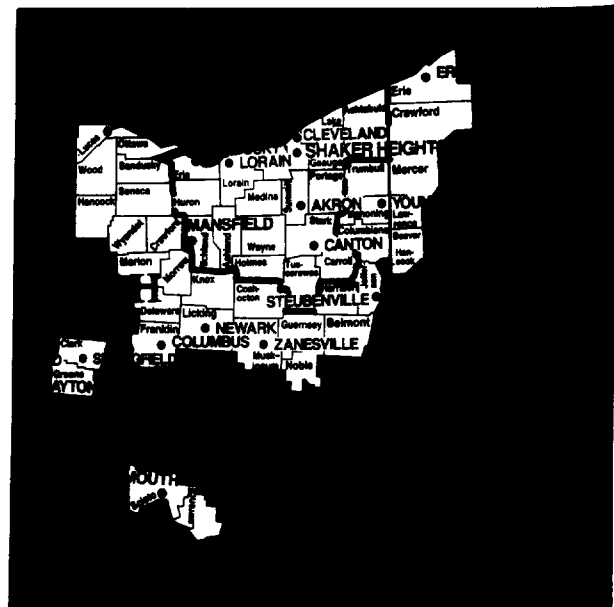
## Cleveland (Akron, Canton & Sandusky, Ohio) (11)

ADI TV Households: 1,445,100

**WKYC-TV** Cleveland ch. 3 NBC  
**WEWS** Cleveland ch. 5 ABC  
**WJW-TV** Cleveland ch. 8 CBS  
**WDLI** Canton, Ohio ch. 17 IND  
**WOIO** Shaker Heights, Ohio ch. 19 Fox  
**WAKC-TV** Akron, Ohio ch. 23 ABC  
**\*WVIZ-TV** Cleveland ch. 25 ETV  
**WUAB** Lorain, Ohio ch. 43 IND  
**\*WEAO** Akron, Ohio ch. 49 ETV  
**WGGN-TV** Sandusky, Ohio ch. 52 IND  
**WBNX-TV** Akron, Ohio ch. 55 IND  
**WQHS** Cleveland ch. 61 IND  
**WOAC** Canton, Ohio ch. 67 IND

ADI Counties	State	TV Households
Ashland	OH	17,200
Ashtabula	OH	37,300
Carroll	OH	10,200
Cuyahoga	OH	568,500
Erie	OH	29,500
Geauga	OH	26,500

Holmes	OH	8,800
Huron	OH	20,700
Lake	OH	79,600
Lorain	OH	97,700
Medina	OH	41,300
Portage	OH	49,900
Richland	OH	48,800
Stark	OH	140,100
Summit	OH	198,400
Tuscarawas	OH	33,500
Wayne	OH	37,100



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Color

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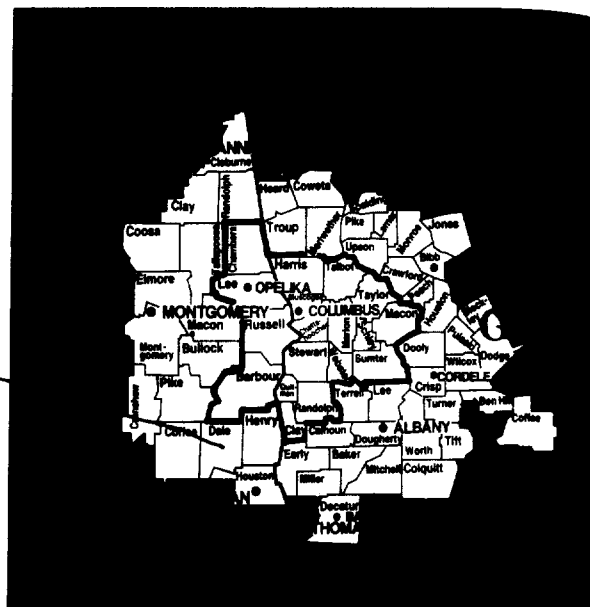
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## Columbus, Ga. (Opelika, Ala.) (119)

ADI TV Households: 186,200

WRBL Columbus, Ga. ch. 2 CBS  
 WTVM Columbus, Ga. ch. 9 ABC  
 \*WACS-TV Dawson, Ga. ch. 25 ETV  
 \*WJSP-TV Columbus, Ga. ch. 28 ETV  
 WLTX Columbus, Ga. ch. 38 NBC  
 \*WGIO Louisville, Ala. ch. 43 ETV  
 WXTX Columbus, Ga. ch. 54 Fox  
 WWSW-TV Opelika, Ala. ch. 66 IND

ADI Counties	State	TV Households			
Barbour	AL	9,400			
Chambers	AL	14,700			
Lee	AL	33,300			
Russell	AL	19,000			
Chattahoochee	GA	3,700			
Clay	GA	1,300			
Harris	GA	6,900			
Macon	GA	5,000			
Marion	GA	1,700			
Muscogee	GA	68,300	Sumter	GA	10,200
Quitman	GA	800	Talbot	GA	2,200
Randolph	GA	3,200	Taylor	GA	2,800
Schley	GA	1,100	Webster	GA	800
Stewart	GA	1,800			



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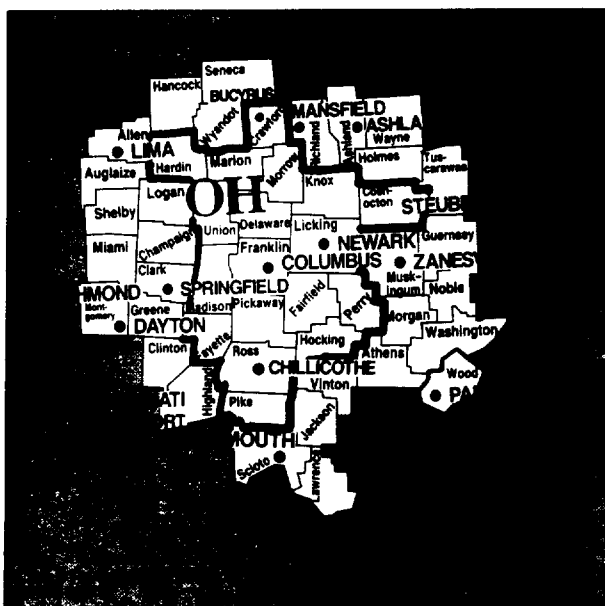
Corp

ADI TV

KIII Corp.  
 KRIS-TV  
 KZTV Corp.  
 \*KEDT-TV  
 KORO Co.

ADI Counties

Aransas  
 Bee  
 Brooks  
 Duval  
 Jim Hogg  
 Jim Wells  
 Kenedy  
 Live Oak  
 Nueces  
 Refugio  
 San Pat



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## Columbus, Ohio (Chillicothe) (33)

ADI TV Households: 690,600

WCMH-TV Columbus, Ohio ch. 4 NBC  
 WSYX Columbus, Ohio ch. 6 ABC  
 WBNS-TV Columbus, Ohio ch. 10 CBS  
 WTTE Columbus, Ohio ch. 28 Fox  
 \*WOSU-TV Columbus, Ohio ch. 34 ETV  
 WSFJ Newark, Ohio ch. 52 IND  
 WWAT Chillicothe, Ohio ch. 53 IND  
 WCOM Mansfield, Ohio ch. 68 IND

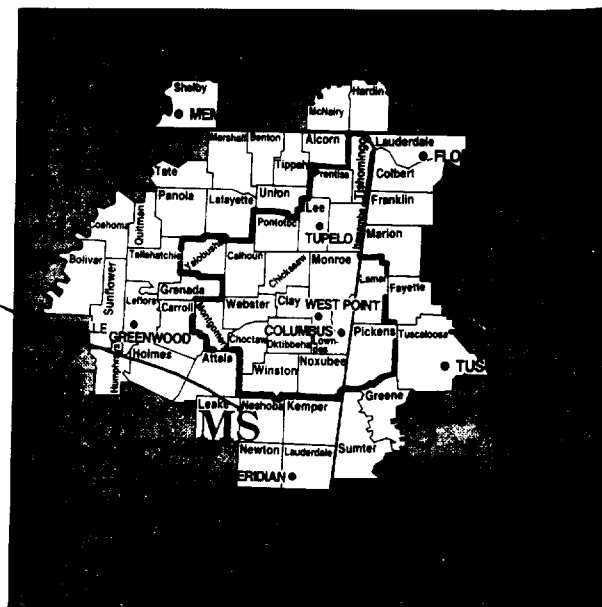
ADI Counties	State	TV Households			
Coshocton	OH	14,100	Knox	OH	18,000
Crawford	OH	18,700	Licking	OH	48,100
Delaware	OH	22,700	Madison	OH	11,300
Fairfield	OH	36,600	Marion	OH	23,700
Fayette	OH	10,200	Morrow	OH	10,100
Franklin	OH	383,300	Perry	OH	11,600
Hardin	OH	12,000	Pickaway	OH	15,300
Hocking	OH	9,900	Pike	OH	9,300
			Ross	OH	24,200
			Union	OH	11,500

## Columbus-Tupelo (West Point), Miss. (129)

ADI TV Households: 165,100

\*WMAB-TV Mississippi State, Miss. ch. 2 ETV  
 WCBT-TV Columbus, Miss. ch. 4 CBS  
 WTVB Tupelo, Miss. ch. 9 NBC  
 \*WMAE-TV Booneville, Miss. ch. 12 ETV  
 WWSB-TV West Point, Miss. ch. 27 ABC

ADI Counties	State	TV Households			
Lamar	AL	6,200	Itawamba	MS	7,900
Pickens	AL	7,200	Lee	MS	25,400
Calhoun	MS	5,600	Lowndes	MS	21,800
Chickasaw	MS	6,400	Monroe	MS	13,000
Choctaw	MS	3,200	Montgomery	MS	4,300
Clay	MS	7,500	Noxubee	MS	3,900
			Oktibbeha	MS	12,200
			Pontotoc	MS	8,700
			Prentiss	MS	9,300
			Tishomingo	MS	7,100
			Webster	MS	3,600
			Winston	MS	6,800
			Yalobusha	MS	5,000



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ADI

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 WQAC  
 KLJB  
 KJMH

ADI Counties

Bureau  
 Carroll  
 Hendry  
 Henry  
 Jo Da  
 Knox  
 Mercer  
 Rock  
 Warren  
 White  
 Cedar